IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 14671 of 2005

Between:

1 N.V.Subba Raju, s/o Suryanarayana Raju,
r/o Lasansbay Colony, Visakhapatnam.
2 N.Narayana Raju, s/o Suryanarayana Raju,
r/o 9-11-8/9, Sivajipalem, Visakhapatnam.

..... PETITIONERS

AND

1 The Government of Andhra Pradesh,

rep., by its Special Secretary,

Environment, Forests, Science & Technology
Department, Secretariat Buildings, Hyderabad.
2 The Divisional Forest Officer,

Vizianagaram.
3 The Sub-Divisional Forest Officer,

Parvathipuram, Vizianagaram Dist./Forest Range Officer,
In-charge, Salur, Vizianagaram District.
4 The Principal Chief Conservator of Forests,

Hyderabad.
5 The Assistant Commissioner & Executive officer,

MANSAS Trust, Vizianagaram.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction, declaring

the inaction of the respondents No.1 to 4 in not issuing transit permits to the petitioners to transport dead and dry Bamboo Cuts laying on the Land and also not permitting them to cut the Long Bamboo of live stock and transport the same as per the details of enumeration of MANSAS Mokhasa of Mathumuru Beat, Salur Section of Saluru Range for the year 2003-04 to 2005-06, pending finalization of management plan by the 4th respondent as illegal, arbitrary, in violation of Article 14 & 21 of the Constitution of India and without jurisdiction and consequently direct the respondents 1 to 4 to issue transit permits to the petitioners to transport the dead and dry Bamboo cuts lying on the land and also permit them to cut the Long Bamboos of Live stock and transport the same as per the details of enumeration of Mansas Mokhasa of Mathumuru Beat, Salur Section of Salur Range for the year 2003-04 to 2005-06.

Counsel for the Petitioner: Mr. RAMA RAO MAVIDI
Counsel for the Respondents: GP FOR FORESTS

The Court, at the stage of admission, made the following :

ORDER:

The petitioners herein are brothers. The 1st petitioner obtained lease-hold rights of usufructs of the Forest produce and Granites for six Faslies from 01-11-2000 to 31-10-2006 by entering into a lease agreement with Mansas Trust, Vizianagaram on 28-10-2000. In view of the same, he paid an amount of Rs.12,000/- towards annual lease amount per year to the 5th respondent-Assistant Commissioner and Executive Officer, Mansas Trust, Vizianagaram. While so, the 1st petitioner requested the 2nd respondent-Divisional Forest Officer, Vizianagaram to accord permission for removal of the Bamboo from the above said lands. Accordingly, the 2nd respondent after obtaining necessary permission from the authorities concerned accorded permission for removal of dead and dry Bamboo cuts subject to payment of Rs.10,000/- as security deposit and in view of the same, directed the 3rd respondent-Forest Range Officer to issue Form-II Lorry Load permits. By virtue of the transport permits, the 2nd petitioner who was nominated by the 1st petitioner could transport the bamboo cuts during the year 2004 in respect of the forty loads. Due to heavy rains, the same could not be transported. Thereafter, by stating various reasons, the authorities withdrew the permits. Challenging the same, he filed W.P.No.22670 of 2004. By virtue of the orders passed by this Court in the above writ petition, the petitioner could transport forty loads of bamboo. Thereafter, the petitioner made a representation on 24-03-2005 to the 2nd respondent-Divisional Forest Officer to accord permission. He was informed by the 3rd respondent through a letter, dated

25-03-2005, that action will be taken on his representation by the 2nd respondent-Divisional Forest Officer, only after preparation and sanction of management plan from the 4th respondent-Principal Chief Conservator of Forests, Hyderabad. The grievance of the petitioner is that in spite of his repeated representations, the respondents-authorities failed to issue transit permits to transport the dead and dry bamboo cuts and also to permit them to cut and transport the wet bamboos in the Mokhasa Area which is illegal and arbitrary. Therefore, the present Writ Petition has been filed.

2. On receipt of rule nisi, the 3rd respondent filed his affidavit admitting the grant of permissions earlier by the Divisional Forest Officer, Vizianagaram Section in Form No.II for transportation of bamboos, but denied that the petitioner could not transport due to heavy rains, within the time limit. But however, the permits were withdrawn for various reasons, more so, as per the directions of the Government of Andhra Pradesh dated 06-10-2004. However, in compliance of the orders of this Court in W.P.M.P.No.29756 of 2004 in W.P.No.22670 of 2004, permits were granted by the 2nd respondent and the petitioner transported the bamboos. It is further submitted that on the instructions of the Principal Chief Conservator of Forests, the representation filed by the petitioner for grant of permits to transport bamboos was forwarded to him and the Management plan is under consideration. It is further stated that as per the Forest Conservation Act, 1980, a scheme has to be prepared and got approved by the Principal Chief Conservator of Forests. Accordingly, the Management plan was forwarded to the Divisional Forest Officer, Vizianagaram, on 23-06-2005 and it is under scrutiny of 2nd respondent, which will be submitted to the Principal Chief Conservator of Forests for approval. It is further submitted that on receipt of the approval of the Management plan, necessary action would be taken as per Rules.

3. As can be gathered from the averments of the counter, the District Collector, Vizianagaram, has accorded permission to the 5th respondent by proceedings dated 22-10-2003 for cutting of bamboo and the Divisional Forest Officer has directed the Forest Range Officers for issuance of Form II permits to the petitioners. Accordingly permission was granted. The petitioner, for the second time, approached the respondents for not granting permission. As can be gathered from the facts and circumstances of the case, the Management Plan which was prepared by the petitioner, as per the provisions of the Forest Conservation Act, is under process and soon after the approval by the Principal Chief Conservator of Forests, A.P., Hyderabad, permission would be granted to the petitioner, but it would take considerable time, whereas it is the case of the petitioner that if the matter is delayed, in the natural course, the bamboo would be damaged. For this reason, the request of the petitioner appears to be genuine.

4. Having regard to these facts and circumstances, I direct that pending approval of the Management plan by the Principal Chief Conservator of Forests, A.P., Hyderabad, the petitioner shall be granted permission to transport the bamboo from the land of the

5th respondent, as the petitioner is lessee, within a period of four weeks from the date of receipt of a copy of this order.

5. With the above direction, the Writ Petition stands disposed of. No order as to costs.

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(DHARMA RAO ELIPE,J)

18th July, 2005

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To

1 The Special Secretary,

Government of Andhra Pradesh,

Environment, Forests, Science & Technology
Department, Secretariat Buildings, Hyderabad.

2 The Divisional Forest Officer,

Vizianagaram.

3 The Sub-Divisional Forest Officer,

Parvathipuram, Vizianagaram Dist./Forest Range Officer,
In-charge, Salur, Vizianagaram District.

4 The Principal Chief Conservator of Forests,

Hyderabad.

5 The Assistant Commissioner & Executive officer,

MANSAS Trust, Vizianagaram.

6 Two CCs to the GP for Forests, High Court of A.P.,

Hyderabad (O.U.T.)

7 Two CD copies.